date, an article purporting to state facts relating to the plaintiff's official conduct. In an action for the alleged libel, *held,* that if the defendant honestly believed the facts to be true, and published them in good faith for the purpose of aiding the voters of the state to cast their ballots more intelligently, the article was privileged, even though the facts therein were not actually true. *Coleman* v. *MacLennan* (1908), — Kan. —, 98 Pac. 281.

By weight of authority neither the public press nor private individuals can discuss the conduct or character of public officers, or of candidates, without incurring liability for defamatory utterances which are false. 18 Cyc. 1042, 3 Am. & Eng. Ann. Cas. 649; *Hallam* v. *Post Pub. Co.,* 59 Fed. 530; *Rearick* v. *Wilcox,* 81 Ill. 77; *Coffin* v. *Brown,* 94 Md. 190; *Root* v. *King,* 7 Cow. (N. Y.) 613; *Post Pub. Co.* v. *Moloney,* 50 Ohio St. 71; *Com.* v. *Clap,* 4 Mass. 163; *Smurthwaite* v. *News Pub. Co.,* 124 Mich. 377, 83 N. W. 116; *Upton* v. *Hume,* 24 Ore. 420; *Express Printing Co.* v. *Copeland,* 64 Tex. 354; *Sweeney* v. *Baker,* 13 W. Va. 158. The decision in the principal case is based upon the theory that the majority rule as laid down in these cases is too narrow, and that its application necessitates an abridgement of the constitutional right of free speech, leaving "no greater freedom for the discussion of matters of the gravest public concern than it does for the discussion of the character of a private individual." This view has obtained the sanction of a minority of the courts: Maine, Minnesota, South Dakota, North Carolina, Iowa, Pennsylvania and New Hampshire being among the jurisdictions in which it has been so held. *Branford* v. *Clark,* 90 Me. 298; *Ramsey* v. *Cheek,* 109 N. Car. 270; *Bays* v. *Hunt,* 60 Ia. 251; *Palmer* v. *Concord,* 48 N. H. 211; *Myers* v. *Longstaff,* 14 S. D. 98; *Marks* v. *Baker,* 28 Minn. 162.

Lotteries—What Constitutes—Sale of Chances.—Defendant and his partner were tailors. In connection with their business they established a suit club which numbered 52. Each member paid one dollar per week for 26 weeks to become a member. On Saturday night of each week there was a drawing of numbers from a bag, and the lucky member drew a suit of clothes. Thereafter he could remain in and pay his one dollar per week or withdraw and a new member was obtained. After 26 drawings and when a member had paid in $26.00 he was entitled to a suit of clothes if he had not been successful at a drawing. *Held,* that defendants were guilty of conducting a lottery and had violated both the letter and spirit of the lottery statutes. *Grant et al.* v. *State* (1908), — Tex. Cr. App. —, 112 S. W. 1068.

The facts in this case disclose an ingenious scheme by which the defendants intended to increase their tailoring business. They swore that each suit given away was worth $26.00, and according to the scheme every member would have a suit at the end of 26 weeks. The Texas court, however, followed the case of *Randle* v. *State,* 42 Tex. 580, and defined a lottery as "any drawing where money or property is offered as prizes to be distributed by chance, according to a specified scheme or plan and a ticket or tickets sold, which entitle the holder to money or property and which is dependent upon chance." Under this definition the court held the club to be a lottery both

in letter and spirit. According to *Equitable Loan & Security Co.* v. *Waring,* 117 Ga. 599, there are three essential ingredients in a lottery—consideration, prize and chance. All of these essentials are present in the principal case in spite of the fact that every member will obtain a suit in the end. Before each has paid his full $26.00 there is a hazard of a small amount to gain a large amount, and this makes it a criminal lottery, according to the case of *Johnson* v. *State,* 137 Ala. 101. Cases similar to the principal case are: *State* v. *Moren,* 48 Minn. 555, and *People* v. *McPhee,* 139 Mich. 687, 103 N. W. 174, 69 L. R. A. 505.

MANDAMUS—COURTS OF APPELLATE JURISDICTION—SUPERVISORY CONTROL.—Application was made to the Supreme Court for a mandamus to compel a circuit judge to set aside an order quashing a criminal complaint and directing him to reinstate the action and proceed with trial. *Held* (DODGE, J., dissenting), that the Supreme Court has superintending control in a criminal case even to review judicial action by mandamus. *State ex rel. Umbreit* v. *Helms, Circuit Judge* (1908), — Wis. —, 118 N. W. 158.

The principal case contains an elaborate exposition of the law of mandamus and attempts to settle the vexatious question so often arising, whether the supreme court would not only review by mandamus the action of an inferior court upon a preliminary question, but would also review any ruling in dismissal, which applied to criminal cases, would be a dismissal prior to the impanelling of a jury and the placing of a defendant in jeopardy. The opinions were given seriatim, the majority holding that the power granted under § 3, Art. 7, Const. Wis., declaring that "the Supreme Court shall have a general superintending control over all inferior courts; it shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari and other original and remedial writs and to hear and determine the same," applied to criminal as well as civil actions and should be followed in the principal case. This rule is asserted in *State ex rel. Bank* v. *Johnson,* 103 Wis. 614, 79 N. W. 1081, 51 L. R. A. 33; *State ex rel. McGovern,* — Wis. —, 116 N. W. 225; *State ex rel. Harris* v. *Laughlin,* 75 Mo. 358; *Benners* v. *State,* 124 Ala. 97, 26 South. 942; *People* v. *Smith,* 59 Mich. 529; BISHOP'S CRIM. PROC. (4th Ed.), § 1402. The fact that it becomes necessary to review judicial action is no insuperable obstacle to the exercise of the power of superintending control in a proper case. *State ex rel. Milwaukee* v. *Ludwig,* 106 Wis. 234, 82 N. W. 158; *State* v. *William,* — Wis. —, 116 N. W. 225. See extended note to *State ex rel. Bank* v. *Johnson,* 103 Wis. 591, in 51 L. R. A. 33. Opposed to the foregoing rule is the English view that if the writ is allowed it virtually exercises jurisdiction and tries the case upon an issue of law. *Reg.* v. *Brown,* 7 Ellis & B. 757. The general view is that the power of our state supreme courts is coterminous with the power vested in the court of the King's Bench, and such a question would be excluded from the superintending jurisdiction of that court. *Ex parte Lewis,* 21 Q. B. Div. 191; *Reg.* v. *Drayman,* 7 Ellis & B. 672; *Rex* v. *Justices,* 1 M. & S. 190. The reasoning of the court being that it is called upon to act where its decision is advisory. *Reg.* v. *Drayman* (supra). It